

## TOQUERVILLE CITY COUNCIL MINUTES

**6:00pm Work Meeting, 7:00pm Regular Meeting**

**Thursday April 9, 2015**

**Held at 212 N. Toquerville Blvd, Toquerville Utah**

**ATTENDING:** Mayor M. Darrin LeFevre, Council (CC) members: Ty Bringhurst, Mark Fahrenkamp, Brad Langston, Daren Cottam, Paul Heideman (who arrived at 7:18 pm ); Attorney Heath Snow (who arrived at 6:20 pm); Staff and Zoning Administer Mike Vercimak, Planning Commission Chair Keen Ellsworth, Recorder Renee Garner, Treasurer June Jeffery, Public Works/ Maintenance Lance Gubler, ACSSD Representative Blair Gubler, and City Engineer Karl Rasmussen, Others: Susan Whiting, La Verkin Police Chief Benjamin Lee, Debbie Lee, Manning Butterworth, Mark Shelton, Jenny Chamberlain, Greg Kleinman, Brysen Kleinman, Tami Young, and Ryan Stout.

### **6:05 PM – MAYOR M. DARRIN LEFEVRE CONVENED THE WORK MEETING:**

1. Ash Creek Special Service District Sewer Update: a) Blair Gubler told us that a land developer interested in opening two recovery facilities in the Shangri-La Valley is coming to his Board meeting. The Sewer District asked them to build a septic system or pump up the hill to the city's system. No more septic tanks would be permitted in that area due to the high nitrates. b) Darwin Hall will be leaving in June. Resumes are still being accepted to replace him until April 20<sup>th</sup>.

**PRESENTATION:** La Verkin City Police Chief Ben Lee discussed an inter-local agreement/contract with Toquerville to provide Dog Pound services. Chief Lee expressed appreciation to Council for this opportunity to establish a closer relationship to Toquerville regarding animal control. The La Verkin pound would provide impound service for all law enforcement referred dog incidents in Toquer. The costs include expenses for personnel, building, utilities, vehicles, dispatch, reporting, vaccination, food and storage. Toquerville residents would have the ability to surrender dogs to the shelter. Toquerville City will provide owner records of registered dogs. Chief Lee informed us that it was a no-kill shelter which means under a certain percentage of dogs are euthanized. He offered that volunteers are welcome including children accompanied by parents or as scout groups and homes.

Originally La Verkin offered Toquer a full service contract with periodic patrols for \$18,000.00 per year. This was beyond Toquerville City's budget. The offer on the table is \$500.00 per month. This contract will be reviewed annually. This proposal is subject to approval of the La Verkin city Mayor and Council.

Mayor stated that the current situation where La Verkin is taking our dogs without an agreement has a cost. He felt this was a fair agreement for the services La Verkin is already providing. He advised that this contract could be a part of the new budget in June. Chief acknowledged that his pound had already taken 12 dogs this year. Daren C opined that Toquer should pay her fair share of the costs.

2. Staff Report: Planning Commission Update: Chair Keen Ellsworth explained his proposed amendment to Title 10-10A-2 adding clarifying language that specified the permitted use of renting property. It would now read "... rentals... In excess of 90 days." Heath explained that Keen's change will make clear that code allows long term rental of property and takes the confusion out of current code regarding short term rentals.

Keen mentioned the other ordinance that was before Council was not passed to recommend or not recommend to Council. It was the one stating short term rentals are prohibited unless owned and operated by a person also residing in Toquerville. Keen talked about the Fire District's concern for fire suppression and over congestion. The District thought these facilities should be treated as commercial and should be made to have sprinklers, at least for homes that had more than 10 people in them. Keen expressed the responsibility of the city to protect the rights of neighbors. Short term rentals could have unregistered animals, they attract groups, not just families, and parking could clog the streets. Brad asked if those things couldn't be conditions of a permit. Keen answered that enforcement would be impossible with no police force. Keen felt we could encourage bed & breakfast facilities (B&B), where the owner/operator lives in the city and will be held accountable.

Mayor explained that he asked for both ordinances to be on the agenda. He felt that Planning Commission was not getting to an answer in a timely manner on the short term rental ordinance written by Attorney Heath which allows short term rentals only when the owner is currently residing in the city. Keen recommended that council pass D-1 defining renting as more than 90 days. Keen also recommended removing the strike-outs and passing his original ordinance which would remove all references to 'home occupations' in this section of code. He explained that the verbiage creates circular citation, leading a reader back and forth through the code.

Mike stressed the need to be deliberate and not to hurry through the process. He remarked that both Hurricane and La Verkin were still struggling to pass their own short term rental legislation in spite of La Verkin City's positive positioning on the issue. He mentioned that Hurricane has a short term rental overlay zone already and that one home going in at this time has six built-in bunks per room. The Fire District has serious reservations about such a structure not being made to conform to hotel standards.

Staff Report: Zoning Administrator Update: Mike Vercimak stated that the Therapia recovery group mentioned in Blair's report also came to Staff meeting. They were given to understand that all utilities and services for the Shangri-La Valley would have to be upgraded to city standards before we would be able to allow a facility of the size they were proposing.

There were health, safety, fire suppression, and flood way issues. Mayor stated that the streets and culinary water would have to come up to city standards and be deeded to the city. Lance remarked that the road is 2000 feet and 2800 feet to the property in question. Heath clarified that the city would need a public easement at the least if not dedication. Mike gave the list of things needed to come into compliance with fire code: Roads at 20 feet width, water with 8 inch pipe down the hill and 2" hook up for the facility, they'll need a sewer system, and the last issue is that the homes themselves are in a flood way, not just a flood plain. This means the city cannot grant them a building permit.

Mayor summarized that if they can bring all up to current city standards the city would welcome them.

Mayor and June gave a brief history on the Shangri-La Valley's private water system for culinary. Mike opined that they were attending meetings to perform their due diligence. Water Conservancy District's (WCWCD) impacts were discussed and Mayor expressed the need to talk to WCWCD, since they are not supposed to be charging impacts to building permits in Toquerville. He mentioned they don't charge for main lines (8 inch) in any event.

Mike asked for clarification that the city will require dedication of roads and water when these are brought to city standards. Most agreed with this. Mark felt keeping the road private would be ok as long as we were given easements.

Mayor asked all others to report during the Council Report section of the regular meeting. He closed the work meeting.

**7:00 PM MAYOR M. DARRIN LEFEVRE CONVENED THE REGULAR MEETING:** 1. Pledge was led by Council Daren Cottam, invocation given by Mayor M. Darrin LeFevre. 2. Mayor asked for statements of belief by the public, none given. 3. Mayor called on Council for disclosures or declarations of conflict, none given.

**A. CONSENT AGENDA:** Mayor LeFevre reviewed Consent Agenda and led discussion including the CC meeting minutes and executive session meeting minutes of March 12, 2015, and the March Expenditures. Mayor called for a Motion.

**Motion** by Daren Cottam to approve the Consent Agenda including all the minutes for March 12, 2015, and the March Expenditures was second by Ty Bringhurst. Mayor asked for comment. None given, he asked for roll call: Paul Heideman, Brad Langston, Ty Bringhurst, Mark Fahrenkamp, and Daren Cottam, all Ayes. Consent Agenda approved unanimously.

**PRESENTATION:** Tree Board to make recommendations to Council was given by Tami Young. Doris Ewell had formerly asked the city to remove a large mature Arizona Ash that borders her property on the west. There is a sidewalk and the tree is located to the west of the sidewalk. The property is at address 15 S Ash Creek Drive on the east side of Ash Creek. Tami reported that the Tree Board thought the tree lies on city property. She stated the council might like to hire a survey to determine for sure of that. She said the upheaval of the sidewalk as a result of the roots is causing a serious public safety issue. The Ewells have indicated they would be willing to cut up the tree once felled. It would be left street side as there is room to do so, with a little trimming. They would take what they can for firewood and dispose of the rest. The estimated cost is about \$400.00 for the felling only. The Board recommends removal and the use of money from the general fund to do so.

**B. PUBLIC HEARING:** Mayor called for a motion to go into a public hearing to hear public comment on an ordinance to prohibit short term leases or rentals of properties, an ordinance to amend the animal code updating dog licensing and other issues, and to discuss city involvement in the county curbside recycling proposal.

**Motion** by Ty Bringhurst to move into a public hearing to hear public input on the three items stated was second by Brad Langton. All agreed unanimously.

1. Public input and comment is sought on passage of ordinance 2015.03, previously designated #ORD.2014.07, to prohibit short term leases or rentals of properties in residential, agricultural and other zones. This is the ordinance written by Heath that only allows short term rentals if they are owned by a person residing in the city.

a) Susan Whiting questioned the line regarding B&Bs. Mike responded that B&Bs are very different than short term rentals because the home owner is in residence and can monitor the clientele.

Heath stated that both ordinances regarding short term rentals would be amending what was previously called the Land Management Code and is now designated Title 10. He also opined that since this ordinance was not passed by planning commission it was not properly before council.

2. Public input is sought to amend Title 5 by ordinance 2015.04, the animal ordinance updating section on dog licensing and other related issues. No comments.

3. Public input is sought regarding city involvement in the county curbside recycling program.

a) Manning Butterworth shared his concern that the binnie program would be phased out as the curbside recycling program gets going. Brad told us the County Solid Waste Department had no plans to phase out the binnies. They will be consolidating some binnies in urban areas for lack of use, but rural areas are going to continue.

b) Jenny Chamberlain expressed her support for curbside recycling. She felt binnies were nice but curbside will be more convenient. She volunteered to help the city if we need it.

Mayor asked for any further comment, hearing none he asked for a motion to close the public hearing

**Motion** by Brad Langston to leave the public hearing was second by Paul Heideman. All agreed unanimously.

**C. PUBLIC FORUM:** Mayor asked for any further remarks on any subject by the public.

1. Susan Whiting complained that someone was planning to put in a modular home in Almond Heights area. She asked if the city could forbid it. Mayor explained that Almond Hts had submitted covenants and restrictions to the County but never established a home owners association (HOA). He encouraged Susan to talk to her neighbors about setting up and forming an HOA with a president, secretary, architectural review board, etc. Heath told her that any individual can hire an attorney and sue anyone who they feel is violating the covenants and restrictions when there's no HOA but the purpose of the HOA is to bear the cost as a group. Heath told her that modular homes are legal and that cities cannot restrict them.
2. Manning Butterworth and Mark Shelton announced they would like to plan an amateur astronomy day at the Center Street Park. This would be a family friendly event and open to everyone. They asked for the city to wave the reservation fee. There would be no food. They would set up approximately seven telescopes. Council chose to put this as an action item on the next council agenda to remit the payment and gave Renee permission to hold the checks until then.
3. Ryan Stout complained that he still gets a puddle at the corner of Ash Creek and Old Church when it rains. He reports that the water is not moving down to the drain.

**D. NEW BUSINESS:**

1. Item: possible motion regarding amendment to Title 10 by ordinance 2015.02, (Previously Chapter 6 of the Land Management Code) regarding residential leases, Home Occupation Permits, and other related matters. Mike reviewed the recommendation for approval from PC. Mayor called for a motion.

**Motion** was by Brad Langston to approve the amendment of Title 10 by ordinance 2015.02 as recommended by planning commission adding clarifying language to the long term rental of property to state "... rentals... in excess of 90 days". Second was by Mark Fahrenkamp. Mayor asked for comments. None given, Mayor called for vote: Mark Fahrenkamp, Ty Bringham, and Brad Langston, voted Aye. Daren Cottam and Paul Heideman voted Nay. Motion to approve the amendment of Title 10 by Ordinance 2015.02 adding clarifying language to the long term rental of property passed.

2. Item: possible motion regarding proposed ordinance 2015.XX, previously designated #ord.2014.07, to prohibit short term leases or rentals of properties in residential, agricultural and other zones. (This one allows a person residing in Toquer to lease a second property in this way). Heath recommended that it be tabled to allow planning commission to continue their review. Mayor called for a motion.

**Motion** was by Paul Heideman to table ordinance 2015.XX to prohibit short term leases or rentals of properties in residential, agricultural and other zones. Second was by Daren Cottam. Mayor asked for comments. None given, Mayor called for vote: Paul Heideman, Brad Langston, Ty Bringham, Daren Cottam, and Mark Fahrenkamp, were all Ayes, Motion to table ordinance 2015.XX to prohibit short term leases or rentals of properties carried unanimously.

3. Item: possible motion regarding proposal to amend Title 5 by ordinance 2015.XX updating section on dog licensing and other related issues. Heath recommended it be tabled to allow his office and our staff to fine tune it. Heath explained that the original ordinance was modeled after Hurricane City. Now that we're working with La Verkin an attempt was made to make it more like their code. He felt that we should separate our animal ordinance from the dog licensing portion. Renee had the opportunity to explain why she changed only the things she did. She put all the "unlawful acts" in one section and thought that the dog licensing could be in the same ordinance as the section of "care and keeping of animals and livestock" in general. That section is only one page of an eight page document. Brad thought separating the dog portion out was a good idea. Paul thought it was unnecessary and confusing. Working from Heath's talking points council discussed removing the conditional use permit requirement from the kennel license and automatically requiring payment of a kennel fee. Mark thought it should remain a conditional use, Daren and Ty thought we should follow the La Verkin ordinance. All agreed to remove the exemptions for services and puppies for sale. The ordinance calls for dogs to be licensed at four months. All agreed to remove the rabies portion. Mayor asked Heath to get with Renee to work out the details and he called for a motion.

**Motion** was made by Mark Fahrenkamp to table amendment of Title 5 by ordinance 2015.XX updating section on dog licensing and other related issues. Second was made by Ty Bringham. Mayor asked for comments. Hearing none, called for a vote: Mark Fahrenkamp, Daren Cottam, Ty Bringham, Brad Langston, and Paul Heideman, all Ayes. Motion to table the amendment of Title 5 by ordinance 2015.XX updating section on dog licensing and other related issues carried unanimously.

4. Item: possible motion regarding amendment to the uniform fee schedule by resolution 2015.03 amending building inspection fees for the purpose of road improvement, business license fees for business sign applications, code enforcement for dog licensing and penalty fees. Renee explained that the culinary water meter request fee was changed to \$500.00 from \$450 because originally the \$450.00 was combined with the \$50.00 fee. The Building inspector historically added those two fees on the building application. Now that the \$50.00 fee was worded differently it wasn't so clear that it should be added. To continue the fee amount at what it's always been, Renee proposed adjusting the one fee. Mayor asked Heath if for his opinion and he said it was fine. Council discussed the street improvement fees and decided they might not need to be in the resolution but can be site-specific per current code. Mayor called for a motion.



**Motion** was by Mark Fahrenkamp to approve resolution 2015.03 amending the uniform fee schedule; removing the road improvement fees, but allowing the business sign application fees, code enforcement fees for dog licensing and penalty fees, and the culinary water meter request fee. Second was by Daren Cottam. Mayor asked for comments. Hearing none, called for a vote: Mark Fahrenkamp, Daren Cottam, Ty Bringham, Paul Heideman, and Brad Langston, all Ayes. Motion to approve resolution 2015.03 amending the uniform fee schedule; allowing the business sign application fees, code enforcement fees for dog licensing and penalty fees, and the culinary water meter request fee carried unanimously.

5. Item: possible motion regarding approval of expenditure of funds for cemetery grave site control project/ field survey. Council discussed budgeting options. Mayor felt that the general fund would cover it. Mayor called for a motion.

**Motion** was made by Brad Langston to approve the expenditure of funds for cemetery grave site control project/ field survey. Second was made by Paul Heideman. Mayor asked for comments. Hearing none, called for a roll call: Paul Heideman, Brad Langston, Ty Bringham, Daren Cottam, and Mark Fahrenkamp, all Ayes. Motion to approve the expenditure of funds for cemetery grave site control project/ field survey carried unanimously.

**PRESENTATION:** Water, Parks, Trails, and Roads Capital Facilities Plan: City Engineer Karl Rasmussen explained that costs were figured on current levels of service. Ty asked that drainage issues be inventoried more fully (page 15), and corrected a mistake on Parks (page 16) City Center Park has a basketball court Trail Ridge doesn't and Trail Ridge also has no bathroom yet. Ty asked about current discussions with WCWCD regarding our water rights. Mayor answered that our rate would be adjusted by .057 which will bring us to 334 gallons per minute. Daren C asked for clarity on why our current park lands that were donated would have a cost or price listed. Karl explained that the study establishes a value on what we have in order to plan that same level of service for future areas of growth. When new people move in we'll need to purchase land for parks to service them so we'll need to plan on that cost. Daren C worried about raising impact fees too much and inhibiting growth. Paul felt that we could rely on volunteerism in the future. Ty disagreed and thought we couldn't depend on the same level of city pride as we grow. Karl remarked that council could change anything that he presented. He stated that it was up to council's discretion. Mark opined that Karl had used the most acceptable method to assess future impact needs, but would like to send Karl's final figures to an objective third party for opinion. Council discussed the concept of the capital facilities plans design in which no actual projects are designated. Heath explained this was a new method of approving impacts, assuming and planning growth but not trying to predict where the growth would occur. He had not heard any opinion or challenges to cities on this method. Council agreed on third party assessment.

Mayor asked for a second meeting in April to work through and finalize this. He also mentioned that the budget for next fiscal year should be an item for discussion. Ty added that he was working with Lorin Lowe to finalize an agreement on the by-pass road right of way/easement through Lowe property. He asked for that to also be on that work meeting agenda. He hoped for a conference call at that time.

The meeting was planned for April 28th at 5:00 pm.

Karl let us know that Utah Division of Transportation's (UDOT), representative Scott Goodwin had told him that we cannot use the sidewalk grant to do the Cholla X Toquerville Blvd (SR-17) spot improvement with turn lanes. The grant must be used for the purpose it was granted and we need to get started on it before July 1st because it was given for this fiscal year. He said the spot improvement would be discussed at the next UDOT meeting. Mayor asked that the sidewalk improvement along the south Toquerville Blvd also address drainage problems. Karl thought we could do that with drainage south.

**E.1 REQUEST FOR AGENDA ITEMS:** April 28, 2015, 5:00 pm, Special Council Work Meeting 1) Discussion on Water, Streets, Parks, and Trails Capital Facilities Plan and impact fees, 2) Discussion on tentative Proposed Budget for Fiscal Year July, 2015 thru June, 2016, 3) Conference call with Lorin Lowe on the by-pass road issue.

**E.2. REQUEST FOR AGENDA ITEMS:** May 14, 2015 Work and Regular Meeting 1) Action item for city involvement in the county recycling program, 2) Action item for Tentative Proposed Budget for Fiscal Year July, 2015 thru June, 2016 and announcement of Public Hearing planned for June 11, 2014 to hear and take action on final proposed budget, 3) Public hearing and action item on Water, Streets, Parks, and Trails Capital Facilities Plan and impact fees. 4) Action item on Dog Pound service agreement with La Verkin City, 5) Action item to allow St George Astronomy Group a fee waiver/remittance for April 25 Astronomy Day at the Center Street City Park, 6) Action item to approve Resolution 2015.XX Uniform Fee Schedule to amend Impact fees, 7) Action item to amend Title 5 by Ordinance (2015.XX) updating section on dog licensing and other related issues.

**Work Meeting Item #5.** Water/Maintenance Update: Lance Gubler covered maintenance, safety concerns, and work updates.

- a) After showing members of council that putting off tank repairs until autumn was not practical, the Westfield tank was drained and checked. Rust on flow spill cost \$8,000.00 to touch up. The floor was good, the interior was sandblasted and painted. Exterior work to sandblast and paint will total \$29,000.00. The interior will need redoing in five years and a more complete job will cost about \$85,000.00 so that needs to be planned for. Council agreed on the expenditure of the \$29,000.00.
- b) The sidewalk at Spring Drive and Toquerville Blvd was completed from the UDOT grant of 75% cost and our match of 25%.
- c) Light bulbs were replaced at Trail Ridge Subdivision. Cost was \$10.00 each.
- d) Tent worm treatment on Cottonwood trees at City Center Park and TRE Park in creek beds was completed in-house.

- e) Drainage concerns were created as a property owner seeks a building permit at 333 W Shangri-La. We need an easement to put in either an 18 inch pipe or a ditch. Mayor opined that we need an easement for the property south from them as well. Heath affirmed that we are responsible for any drainage we make happen. We need to do it and take that water someplace. We're creating more than historical flows. The city may charge the property owner that is building for creating the need.
- f) Rim View Drive has the same type of drainage issues. Estimates for curb and gutter are needed. Daren C would like to enlarge the streets on Toquerville Heights to 35 feet. Paul brought up the drainage corrections done on Ben DeMille's property. Lance reminded us that UDOT created the problem and that the city stepped up and corrected with DeMille's approval. A ditch was made that kept drainage from the home. Now his wife is complaining. Most of council felt the problem was handled to the best of the city's ability.
- g) Request to purchase a skid steer mower attachment at \$250.00 per year to get weeds along the roads.
- h) Request to convert City Center Park basketball court to three pickle ball courts. Council did not approve.
- i) Request to purchase a sand bagger device for future flooding emergencies and safety vests.
- j) Request to allow Randy Johnson to attend training for back-flow devices/ cross connection for \$500.00. Council agreed.

**F. CITY DEPARTMENTS AND COUNCIL REPORT TO THE CITY:**

- 1. Subdivisions/ Water Dept./ Park Maintenance/Park Committee; Mark Fahrenkamp had nothing further.
- 2. Culture & Recreation/ Sewer District/ Beautification Committee; Paul Heideman reported a) Sewer District taking resumes until April 20th. b) Miss Toquerville Pageant now planned for June 6<sup>th</sup> and we're trading the use of the Hurricane Community Center Theater for two days of League Ball in our City Center Park Ball field.
- 3. Streets/ MPO/ Risk Management/ Confluence Park/ Mosquito Abatement; Daren Cottam reported a) Parking lots at both Trail Ridge and City Center Parks need sealing. Will get three bids and request completion date before July 4th event. Crack fill, seal, and stripe the City Center parking lot would be \$7,045.00. Trail Ridge Park would be \$5,295.00. Council agreed. b) UDOT now has our by-pass road as a part of their planned improvements in phase II. c) Utah League of Cities and Towns (ULCT) report that state senate passed a gas tax that may boost ULCT funds by \$13,000.00 and with B&C road funds that adds up to \$25,000 per year. d) A water bill, a transportation bill, and a recreation bill also passed. e) Confluence Park will have a non-profit organization farming and making improvements on that land. They have a plan to get water to it as well. f) Request Karl to bring a map to the April 28 work meeting to work on trails.
- 4. Economic Development/ Emergency Preparedness/ Water Dept. Asst./ Safety Committee; Ty Bringhurst remarked that he's a) Finishing up agreement with Lorin Lowe for by-pass road easement. b) Recommending Jake Peart for PC when there's a vacancy.
- 5. City Hall Maintenance/ Cemetery/ Solid Waste/ Fire District/Tree Board; Brad Langston stated a) Request that sick tree on the City Hall lawn be looked at by Danon Hulet of Urban Forestry for possible removal. b) The cemetery should be fertilized by May. c) County Solid Waste might be ready to give us definite choices on recycling by June or July. d) Direction to Lance to put up Tree City signs on each side of Toquerville Blvd. e) Request for Council opinion on removal of Ewell tree. Council agreed to have it done but asked for a signed agreement from Ewells to clean up the tree after its felled.
- 6. Attorney's Report; Heath Snow gave clarification that what was previously called the Land Management Code (LMC) is now Title 10 and is the biggest section in the code. All code is referenced by title and chapter, paragraph number, etc. When Council wishes to make a change to an ordinance, we must use the numbers and language and make the change to the particular law, then send that to Sterling Codifiers to update our on line code. The cost will be figured per page.
- 7. Mayor M. Darrin LeFevre remarked on complaints about City building lights on the new tank/shed and at City Hall and at the pavilion. All agreed to get information and pricing on new lights for each of these.

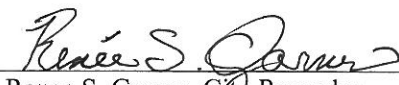
**ADJOURNMENT:** Mayor called for a Motion to Adjourn.

**Motion** by Mark Fahrenkamp to adjourn the public meeting was second by Brad Langston. Mayor asked for a vote: Mark Fahrenkamp, Daren Cottam, Ty Bringhurst, Paul Heideman, and Brad Langston, all Ayes. Mayor stated the motion passed unanimously. Mayor adjourned the Toquerville City Council Meeting.

Minutes of the 4-9-15 Toquerville City Council Meeting will be presented for review and approval at the May, 2015 City Council Mtg.

Approved:   
M. Darrin LeFevre, Mayor

Date: May 14, 2015

Attested:   
Renee S. Garner, City Recorder

